IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7807 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

LALITBHAI BHAGWANDAS PATEL CHAIRMAN AND MD

Versus

STATE OF GUJARAT

Appearance:

MR KS JHAVERI for Petitioner

MR SK PATEL, AGP for Respondent No.1

MS DAVAWALA, for Respondent No. 5

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 20/10/2000

ORAL JUDGEMENT

By means of this petition under Article 226 of the Constitution of India, the petitioner has challenged the order of detention dated 26-6-2000 passed by the District Magistrate, Patan in exercise of powers under

Section 3(2)) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980.

2. Heard Mr.K.S.Jhaveri, learned advocate for the petitioner, Mr.S.K.Patel, learned AGP for the State and Ms.Davawala, learned Addl. Central Govt. Standing Counsel for the Central Government.

3. Mr.Jhaveri has drawn my attention towards the order dated 27-9-2000 passed by this Court (Coram: D.P.Buch, J.) in Special Civil ApplicationNo.7806 of 2000 which reads as under:

> "Rule.
>
> Leave to amend. Office is directed to place this matter along with Special Civil Application No.7806 of 2000 since both the matters relate to one and same order.
>
> Direct service is permitted."

4. Mr.K.S.Jhaveri, learned advocate for the petitioner has contended that co-detenu has been released by this Court on 12-10-2000 while passing judgment in Special Civil Application No.7806 of 2000 and, therefore, on the ground of parity, order of detention passed against the present petitioner may be quashed and set aside.

5. It is argued by Mr.Jhaveri that present petitioner has not been supplied with number of documents which are relating to licence application and according to him, these documents have been relied upon by the detaining authority in passing the order of detention and on that ground also, order of detention passed against the detenu be set aside. He has placed reliance on the judgment of the Supreme Court reported in 1982 S.C. 696 in the case of Mohd. Zakir Vs. Delhi Administration and Ors. at head note which reads as under:

> "Detention-Documents relied on by authorities not supplied with grounds of detention-Detention is illegal."

He has also relied upon the following observations made by the Apex Court in the reported judgment which reads thus:

> "It is manifest that the question of demanding

the documents is wholly irrelevant because it is the constitutional mandate which requires the detaining authority to give the documents relied on or referred to in the order of detention pari passu the grounds of detention in order that the detenu may make an effective representation immediately instead of waiting for the documents to be supplied with."

6. It is the duty of the authority to supply copies of the documents with the detention order. Here in this case, copies of the documents relating to license application have not been supplied to the detenu. Therefore, there is infraction of safeguards provided under the provisions of Art.22(5) of the Constitution of India and the petitioner has been deprived of knowing the grounds and making effective representation against the order of detention. Moreover, co-detenu namely, Tushar Ramanlal Patel, has been released by this Court (Coram: C.K.Buch, J.) on 12-10-2000 while delivering judgment in Special Civil Application No.7806 of 2000 and therefore, present petitioner is also entitled for the same benefit on the ground of parity. Therefore, in view of the aforesaid judgment of the Apex Court and on the ground of parity, order or detention passed against the present petitioner is required to be quashed.

7. In view of the above, the petition is allowed. The order of detention dated 26-6-2000 passed against the petitioner-detenu is hereby quashed and set aside. The detenu-Lalitbhai Bhagwandas Patel is ordered to be set at liberty forthwith, if not required to be detained in any other case. Rule is made absolute accordingly with no order as to costs. Writ be sent to Baroda Central Jail.

(R.P.DHOLAKIA,J.)

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